

The Flinn Report

Illinois

Regulation

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Joint Committee on Administrative Rules

Illinois General Assembly

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to its rules titled "State of Illinois Medical Care Assistance Plan" (80 Ill Adm Code 2120; 30 Ill Reg 5741) (MEDCAP), effective 9/6/06. In addition to expanding the time frame in which eligible expenses may be submitted for reimbursement, the Department relinquished its administrative role over the program to a contractual plan administrator. The rulemaking also integrates use of an EZ Reimburse MasterCard provided by the contractual plan administrator for a \$20 annual fee. Participants using the EZ Reimburse card must obtain a receipt from health care providers showing the service provided, amount of expense, and patient and provider's names, along with other requirements. Use of the EZ Reimburse card avoids any up-front, out-of-pocket expenses for the program participant. Participant medical expenses may now be incurred until September 15th each year rather than the June 30th ending date of a participant's plan year. An election of participation or benefit amount is irrevocable after the signature date of the participant rather than the former practice of using the date when the form

was processed by the Department. A change since 1st Notice expands the definition of "eligible employee" to include those employees who retire, terminate employment, or go on an unpaid leave of absence but choose to continue making contributions to their MCAP for the balance of the plan year.

Questions/requests for copies: Gina Wilson, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

NURSING FACILITIES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments for "Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147; 30 Ill Reg 1255), effective 9/11/06. As extensively revised since 1st Notice, the rulemaking sets a facility's reimbursement rate by multiplying the minimum data set (MDS) based rate by the additional funds appropriated above the 12/31/06 level per Medicaid day after the additional funds have been divided by the difference between the MDS weighted mean rate and the 12/31/06 weighted mean rate. The rulemaking also allows a facility to be reimbursed at a per diem rate for exceptional care

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Proposed Regulations


PAYDAY LOANS FOR MILITARY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed 2 rulemakings addressing payday loans to military personnel titled "Payday Loan Reform Act" (38 Ill Adm Code 210; 30 Ill Reg 15095) and "Consumer Installment Loan Act" (38 Ill Adm Code 110; 30 Ill Reg 15088). Part 210 amendments bar payday loan licensees from making loans on a State of Illinois or United States military base or naval installation but may not refuse to conduct loan business with a military borrower solely on the basis of that borrower's military status. Prior to making a loan, licensees must deliver to military borrowers a notice with information relevant to military borrowers, including: the requirements of this rulemaking, military policies relating to credit, information regarding where military borrowers may find financial assistance through established military programs, and where military members may find information about local credit counseling alternatives. Any "protections granted to a member of the military" must also be granted to the military member's spouse. The amendments to Part 110 add a definition of the term "member of the military", bar garnishment of the wages of a member of the military, bar contact with the military chain of command in an effort to collect a borrower's loan, impose a suspension or deferral of collection activity against a consumer who is a

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

separate from MDS when the total variable nursing time on which reimbursement is based drops in excess of 5%. Further amendments require that accurate and complete patient information related to MDS be recorded, including disease diagnoses, activities of daily living and skills training, restorative plans, discharge planning, psychosocial adaptation services and psychotropic medication monitoring, ancillary provider services, dementia care, and exceptional care (respira-

tory, ventilator care, obesity, wound care, and traumatic brain injury). Also, 14 new reimbursable MDS items (e.g., chemotherapy, dialysis, dementia care, psychiatric services) are added. Additional amendments add a new section specifying MDS on-site review documentation. An additional change since 1st Notice corrects a cross-reference in the provision requiring reduction in the direct care component by \$1 for each percentage decrease in excess of 10%. Due to some inadvert-

ent errors in the text of the adopted rulemaking as it is published this week, the Department will shortly file a Request for Expedited Correction for publication in the *Illinois Register*. Those affected by this rulemaking include Medicaid-funded nursing facilities.

Questions/requests for copies: Tamara Tanzillo Hoffman, HFS, 201 S. Grand Ave. E., 3rd Fl., Springfield IL 62763-0002, 217/557-7157.

Proposed Regulations

member of the military deployed to a combat or combat support posting, and repeat the previous rule prohibitions on loan transactions on a military base and refusing to transact business with a military member. Included also are the military consumer notice provisions above. Except for locations in existence prior to 12/1/06, consumer loan installment licensees are barred from being located within one mile of an Illinois or federal military base or naval installation.

Questions/requests for copies/comments through 11/6/06: Barb Smith, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, Fax 217/782-7645.

with their own customers for mailings and data correction when issuing notary public commissions.

Questions/requests for copies/comments through 11/6/06: Jacqueline Price, Index Dept., 11 E. Monroe, Springfield IL 62756, 217-782-7017, Fax 217-524-0930, e-mail: jprice@ilsos.net

☞ **ROTA TAX EXEMPTION**

The DEPARTMENT OF REVENUE proposed an amendment to "Retailers' Occupation Tax" (86 Ill Adm Code 130; 30 Ill Reg 15099). The amendment describes the tax exemption created by Public Act 94-546 for building materials physically incorporated into a redevelopment project within an intermodal transfer facility area (area where goods are received and transferred from one mode of transportation to another). Qualifying items are common building materials (e.g., lumber, bricks); trackage, ties, ballast, spikes, plates, high mast lighting, and cranes; plumbing, heating, air conditioning, ventilation, and electrical systems; built-in cabinets and appliances; and floor coverings that are permanently affixed. Nonqualifying items include freestanding appliances; floor coverings affixed only with two-sided tape; mobile equipment, trucks, or cranes not physically incorporated; and items used by the contractor that are not physically incorporated. Documentation of the exemption is re-

quired. Those affected by this rulemaking include retailers of building materials and contractors who purchase building materials for a tax-exempt facility.

Questions/requests for copies/comments through 11/6/06: Terry D. Charlton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

MENTAL HEALTH FACILITIES

The DEPARTMENT OF HUMAN SERVICES announced a public hearing for proposed amendments to "Recipient's Property" (59 Ill Adm Code 110) published in the 8/11/06 *Illinois Register*. The rulemaking restricts the types of personal property individuals may bring into a State mental health facility and outlines procedures for notifying individuals of the classes of restricted personal property and for staff to inventory restricted and contraband items. An individual's treatment staff must approve the personal property an individual will possess while in the facility. This hearing is scheduled for Tuesday, 10/17/06, 10:00 a.m. to noon at the McFarland Mental Health Center auditorium, 901 Southwind Rd., Springfield.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

☞ **NOTARIES**

The SECRETARY OF STATE proposed amendments for "Notary Public Records" (14 Ill Adm Code 176; 30 Ill Reg 15114) to embrace CD-Rom technology for purchase of notary appointment records and to require a written contract between purchasers and the SOS setting forth purchase terms and fees. The Secretary reserves the right to adopt new technologies for processing, maintenance, retrieval, etc. of notary public appointment records. According to SOS, those affected by this rulemaking include notary associations, bonding companies, and other for-profit companies that use information to correspond

JCAR Meeting Action

At its September 12, 2006 meeting, the Joint Committee on Administrative Rules voted the following one Objection and 5 Recommendations.

DEPT OF HUMAN SERVICES

JCAR objects to DHS using emergency rulemaking to amend rules titled "Recipient's Property" (59 Ill Adm Code 110; 30 Ill Reg 13527) because no emergency situation requiring immediate adoption of these amendments has been demonstrated.

DEPARTMENT OF STATE POLICE

The Committee considered DSP's emergency rulemaking titled "Child Murderer and Violent Offenders Against Youth Registration Act" (20 Ill Adm Code 1283; 30 Ill Reg 13541) and recommends that the Department act as soon as possible to follow the statutory mandate that a separate Child Murderer and Violent Offenders Against Youth Registry be created. This emergency rule required that these offenders be included in the Sex Offender Registry as an interim measure.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR considered a rulemaking for "Special Eligibility Groups" (89 Ill Adm Code 118; 30 Ill Reg 9981) and recommends that HFS seek an amend-

ment to 305 ILCS 5/1-11 to state that the 5-year waiting period for medical assistance does not apply to children under 19, as provided by 305 ILCS 5/12-4.35. While Section 12-4.35 supersedes Section 1-11, unless both statutes are read together, Section 1-11 could be misleading. Further, JCAR recommends that in future rulemakings HFS cite as its statutory authority the statute that specifically authorizes or underlies the program or change in rule and not its general rulemaking authority.

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Concerning the rulemaking titled "State Universities Civil Service System" (80 Ill Adm Code 250; 30 Ill Reg 108), the Committee recommends that the System seek legislation modifying Section 360 of the State Universities Civil Service Act [110 ILCS 70/360] to permit statutorily required hearings to be conducted by a hearing officer instead of a hearing board.

ELEVATOR SAFETY REVIEW BD.

JCAR considered an emergency rulemaking titled "Illinois Elevator Safety Rules" (41 Ill Adm Code 1000;

30 Ill Reg 13186) and recommends that the Board and the Office of the State Fire Marshal in the future be more timely in promulgating rules to adhere to statutorily established deadlines. Emergency rules implementing the Elevator Safety and Regulation Act were adopted 8 months after the revised statute became law and consequently licensure and registration deadlines were missed. Additionally, JCAR recommends that the Board and the Office seek an amendment to the Act to extend the statutory limits on the opportunity to license by grandfathering.

OFFICE OF THE STATE FIRE MARSHAL

Concerning the rulemaking titled "Fire Sprinkler Contractor Licensing Rules" (41 Ill Adm Code 109; 29 Ill Reg 15410), JCAR recommends that the State Fire Marshal retain the current rule requirement that an engineer give final approval to fire sprinkler system layout documents and also recommends that OSFM expand the rule to reflect the statutory addition of architects as persons also authorized to approve these documents.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's October 10, 2006 meeting in Chicago. **The State Board of Education's rulemaking titled "School Food Service" (23 Ill Adm Code 305; 30 Ill Reg 11474) that was prohibited at an earlier meeting will also be on the October agenda.**

DEPARTMENT ON AGING

"Community Care Program" (89 Ill Adm Code 240) proposed 7/7/06 (30 Ill Reg 11474)

SECRETARY OF STATE

"Regulations Under Illinois Securities Law of 1953" (14 Ill Adm Code 130) proposed 7/28/06 (30 Ill Reg 12729)

STATE BOARD OF ELECTIONS

"The Campaign Financing Act" (26 Ill Adm Code 100) proposed 7/7/06 (30 Ill Reg 11494)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Illinois Dental Practice Act" (68 Ill Adm Code 1220) proposed 7/28/06

(30 Ill Reg 12633)

TEACHERS' RETIREMENT SYSTEM

"The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650) proposed 7/28/06 (30 Ill Reg 12731)

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